

AGENDA SUMMARY PAGE

RECOMMENDING COMMITTEE MEETING OF: NOVEMBER 20, 2007

DEPARTMENT: CITY ATTORNEY

DIRECTOR: BRADFORD R. JERBIC

☐ Consent ☒ Discussion

SUBJECT:

NEW BILL:

Bill No. 2007-68 – Updates the zoning regulations that govern off-premise signs. Sponsored by: Mayor Oscar B. Goodman

Fiscal Impact

☒

No Impact

☐

Augmentation Required

☐

Budget Funds Available

Amount:

Funding Source:

Dept./Division:

PURPOSE/BACKGROUND:

This bill provides certain protections for existing off-premise signs and sign locations. It also provides clarification regarding the permitting of signs and updates the treatment of permitted sign embellishments. The bill reflects elements of a compromise agreement with certain billboard industry representatives resulting from legislation they sought during the last session of the Nevada Legislature. The bill is not a consensus bill; the Council will hear requests for changes from industry representatives, as well as the recommendations made by the Planning Commission.

RECOMMENDATION:

This bill should be submitted to a Recommending Committee for review, hearing and recommendation to the City Council for final action.

BACKUP DOCUMENTATION:

Bill No. 2007-68

Motion made by RICKI Y. BARLOW to Approve as a Do Pass

Passed For: 2; Against: 0; Abstain: 0; Did Not Vote: 0; Excused: 0

LOIS TARKANIAN, RICKI Y. BARLOW; (Against-None); (Abstain-None); (Did Not Vote-None); (Excused-None)

Minutes:

COUNCILWOMAN TARKANIAN declared the Public Hearing open.

CHRIS KNIGHT, Director of Administrative Services, gave a brief history and update on the ordinance. He explained that it was the result of the 2007 State legislative session where

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attempts had been made to amend billboard legislation. He noted the State had granted the Mayor's request to let the billboard industry work locally with the City. He stated that at the meeting between the City and principals of the industry, the industry expressed their three objectives: consistent review periods, the ability to maintain non-conforming status of existing billboards and the ability to raise billboards over soundwalls to maintain visibility. He pointed out the City's objectives were to fulfill the City's obligation to the State legislature to negotiate with the billboard industry in good faith and to resolve issues and to maintain the Council's ability to make decisions on land-use entitlements with regard to billboards. Pointing out the industry had been able to speak with one voice, MR. KNIGHT noted the City had been able to draft an ordinance with major changes. The proposed establishment of a 5 year review for all billboards had resulted in some issues as that limit would exceed the term of the Councilmembers and changing circumstances in the City could warrant more frequent reviews.

MR. KNIGHT informed the Councilmembers that on September 13, the ordinance had been presented to the Planning Commission which had recommended a 3 year review and the ability for some billboards within close proximity to soundwalls be administratively approved.

MR. KNIGHT pointed out the problems related to the retention of non-conforming use status for billboards. He noted that, regardless of the reason for the non-conforming use, if the industry wanted to upgrade that billboard, they wanted the ability to retain that status and the City had agreed to that request. He stated that the industry had also experienced issues relating to final inspections as the existing process was inconsistent and problematic and noted that a process has been developed to expedite that process. He listed other changes which addressed embellishments and established the limits for them. MR. KNIGHT suggested that the request seemed reasonable as other communities currently allow embellishments.

MR. KNIGHT explained that the biggest issues had arisen regarding non-conforming billboards. The City's solution had established a 90 day clock to remove and replace those billboards. If the billboard was not replaced within that time period, the ability to put it back up would be lost. MR. KNIGHT further explained that non-conforming status runs with the land, resulting in an issue regarding who had the ability to take a billboard down, the billboard company or the property owner.

MR. KNIGHT stated that the City Attorney's Office supported the position that the ability to replace a non-conforming billboard was a free market issue and should not be up to the City to determine. He pointed out the ordinance states "owners" of the billboard to apply for the ability to replace it while Planning Commission preferred the word "applicants".

After meeting with MAYOR GOODMAN on 10/4/2007, MR. KNIGHT stated that agreement had been reached that the section dealing with removal and replacement of non-conforming billboards would be removed and reworked. The billboard industry was encouraged to come to a consensus on the replacement of non-conforming billboards by the end of January 2008.

MR. KNIGHT clarified that the ordinance in its present form would satisfy the City's obligation to the State legislation. He noted the many options for addressing this bill, accepting the

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ordinance as presented, taking a side on the billboard replacement issue or removing that issue altogether. He pointed out that SENATOR WARREN HARDY had expressed his support for the City coming to some resolution on this issue. MR. KNIGHT echoed that suggestion, emphasizing that it would be more appropriate to address billboards on a local level rather than a State level.

COUNCILWOMAN TARKANIAN pointed out that SENATOR HARDY'S letter expressed support for the whole ordinance and MR. KNIGHT emphasized SENATOR HARDY'S belief that billboards should be regulated at the local level.

In response to COUNCILWOMAN TARKANIAN'S question, MR. KNIGHT confirmed that the City had agreed to embellishments with text.

COUNCILWOMAN TARKANIAN observed that the City had invested a significant amount of time working with the billboard industry and wondered what the City had received in exchange for the concessions given to the industry. MR. KNIGHT could not confirm that a compromise had been reached, explaining that the intention had been to protect the City's interests by being able to say yes or no to billboards.

COUNCILWOMAN TARKANIAN expressed her disappointment in the process of developing the ordinance and expressed her doubts in the ability of the billboard industry to come to a consensus by January. MR. KNIGHT reiterated that the Council has the ability to remove any part of the ordinance with which they are uncomfortable.

JAY BROWN, 520 South 4th Street, expressed his appreciation with the amount of time that staff has spent on this matter. Regarding the issue addressing what the property owner can do with a non-conforming billboard, he suggested that another use permit should not be required. MR. BROWN stated he had spoken publicly with the MAYOR who had asked that the first three issues be discussed and the remaining issue be set aside until February. He added that some of his clients were ready to move forward on the ordinance with the inclusion of a solution for the upgraded, non-conforming billboard issue, but were willing to wait if the Council so desired.

PAUL LARSEN, 300 South 4th Street, appeared on behalf of Clear Channel. He expressed his agreement with the results agreed upon by the City and the billboard industry on the three points the State Legislature had asked be addressed. With regard to the issue of upgrading existing non-conforming billboards, he stated his clients wanted some guarantee that the capital investment in the upgraded board would be recouped. He expressed his clients' concern with the last minute departure from the ordinance which suggested that the property owner should have control over the billboard. He stated the compromise reached in the Mayor's office, that this issue should be handled in another ordinance, was the best way to address this situation. He asked that the Recommending Committee not delay the compromise legislation and implement the agreement reached in the Mayor's office. With regard to the issue of upgrading existing non-conforming billboards, he stated his clients wanted some guarantee that the capital investment in

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the upgraded board would be recouped.

MR. LARSEN expressed his support of this ordinance, pointing out it represented consensus and a lot of hard work by staff. He noted the City benefits by preserving its ability to continue to regulate the boards and acknowledged the industry asking, in exchange for the ability to raise billboards above Public Works projects like sound walls, for the ability to maintain the non-conforming status of some billboards and for consistent reviews periods for better business planning.

COUNCILWOMAN TARKANIAN requested that MR. LARSEN clarify what he meant by the City clearly articulating its objectives and he explained that during the drafting process of the City's initial billboard ordinance, the City had not been clear in stating its objectives and appeared openly hostile to the industry. He stated that during the current billboard ordinance's drafting process, the City had been much clearer with the result of a billboard ordinance that both the City and the industry could support.

COUNCILWOMAN TARKANIAN observed the difficulties in removing an existing billboard and questioned the ability of the City to enforce billboard regulations when the industry constantly challenge the City's attempts to remove a billboard. MR. LARSEN noted that the checks and balance process was the result of democracy and that a decision regarding billboards would eventually be reached by the courts.

CHRIS KAEMPFER, 3800 Howard Hughes Parkway, appeared on behalf of Lamar Outdoor Advertising. He observed that, generally, legislation brought forward by a particular industry tends to protect that industry. In this case, the ordinance protects the billboard industry rather than the property owners. He questioned the motivations of the billboard companies claiming their efforts would protect the property owners. MR. KAEMPFER acknowledged that the property owner counts, but pointed out that was not the issue being brought forth in this provision. MR. KAEMPFER emphasized the consensus on the first three points and expressed his confidence that a resolution could be reached on the last point. He encouraged the Recommending Committee to move forward on the three non-contested points, which would allow the City and the industry to meet their obligations to the State Legislature.

TEDDY RUSSELL, Las Vegas resident, expressed his support for allowing the ordinance to move forward with the three non-contested points. He also stated his confidence in the ability of the industry and the City to overcome the last issue.

JOHN DAVID PERRIER, General Counsel for Orien, stated the industry had agreed to speak with one voice and had support for the ordinance as presented to the Recommending Committee, with the exception of the last issue. He concurred with MR. KAEMPFER'S suggestion that billboard legislation was intended to protect that industry, but pointed out that approving this ordinance would protect all interested parties.

COUNCILWOMAN TARKANIAN stated she had spoken with MAYOR GOODMAN who had not expressed much hope with the industry coming to a resolution.

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COUNCILMAN BARLOW requested clarification regarding the permissible height of the billboards blocked by sound walls and expressed concern with the negative impact of the pole on a neighborhood. He also acknowledged that a billboard blocked by a sound wall would be of no benefit to anyone.

COUNCILWOMAN TARKANIAN observed that homes in neighborhoods further away from the billboard would now be impacted due to the its increased height.

MR. KNIGHT clarified that the current State statute allows a billboard company the ability to go above sound abatement walls. He explained that the height limitation was a compromise between the City and the industry which would allow them to raise the billboard height without negatively impacting the quality of life for the residents. MR. KNIGHT noted that quality of life issues were part of the Council's consideration on billboard applications.

COUNCILMAN BARLOW requested clarification of the bill's time frame and suggested holding the item until February. MR. KNIGHT explained that it was not necessary to hold the entire bill due to the lack of consensus on a single issue. He emphasized that the last issue had not been raised as a concern during the State legislative session and that it made sense to move forward. He explained that approval of the bill would show the State legislature that the City had bargained, worked and amended the ordinance in good faith.

COUNCILWOMAN TARKANIAN observed that the State legislature would not reconvene until 2009 and MR. KNIGHT explained that the State legislature had requested results on this ordinance before the 2007 session had ended.

MR. KNIGHT informed COUNCILMAN BARLOW that the City keeps the State legislature updated on the progress of the bill. COUNCILMAN BARLOW pointed out that the State Legislature would not be formally informed until 2009.

In response to COUNCILWOMAN TARKANIAN'S question, MR. KNIGHT explained that a motion of Do Pass would allow the ordinance with its neutral stance on the fourth issue to be presented to the City Council.

COUNCILWOMAN TARKANIAN declared the Public Hearing closed.